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8 Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL
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RECEIVED

MAR 06 1993

HUB LAW OFFICES

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF LOS ANGELES

12	CHURCH OF SCIENTOLOGY	)	CASE NO. BC 052395
13	INTERNATIONAL, a California not-for-profit	)	PLAINTIFF'S OBJECTION TO
14	religious corporation,	)	"DEFENDANT ARMSTRONG'S
15		)	MEMORANDUM IN OPPOSITION
16	Plaintiff,	)	TO MOTION IN LIMINE RE
17	vs.	)	ACTIONS OF SCIENTOLOGY"
18		)	AND "DEFENDANT
19	GERALD ARMSTRONG; DOES 1 through	)	ARMSTRONG'S MEMORANDUM
20	25, inclusive,	)	IN SUR-REPLY ON ORDER TO
21		)	SHOW CAUSE RE CONTEMPT;"
22	Defendants.	)	DECLARATION OF LAURIE J.
23		)	BARTILSON IN SUPPORT
		)	THEREOF
		)	DATE: March 5, 1993
		)	TIME: 8:30 a.m.
		)	DEPT: 86
		)	DISC CUT-OFF: April 2, 1993
	<u>AND RELATED CROSS-CLAIM</u>	)	MTN CUT-OFF: April 19, 1993
		)	TRIAL DATE: May 3, 1993

24 Plaintiff Church of Scientology International hereby objects to "Defendant
25 Armstrong's Memorandum in Opposition to Motion in Limine re Actions of
26 Scientology," and "Defendant Armstrong's Memorandum in Sur-reply On Order to
27 Show Cause re Contempt," and requests that they be stricken and not considered
28 by the Court, for the following reasons:

1 1. The Order to Show Cause re: Contempt was issued on December 31,
2 1992;

3 2. Both the Order to Show Cause Re: Contempt and the Motion in Limine
4 were set for hearing, by stipulation of the parties, on March 2, 1993;

5 3. Memoranda of points and authorities opposing these motions were
6 due to be filed and served by Armstrong on February 23, 1993;

7 4. On February 25, 1993, two days after the date on which any
8 oppositions were due to be filed and served, Armstrong moved this Court, by ex
9 parte application, for permission to file a Memorandum in opposition to the Order
10 to Show Cause 44 pages in length. His application was denied, and on that date
11 he filed a 15-page memorandum;

12 5. On March 1, 1993, plaintiff, having received no opposition to the
13 motion in limine, and both the opposition and reply date having passed, filed a
14 notice of non-opposition to the motion in limine;

15 6. On March 1, 1993, the Court, on its own motion, continued the
16 hearing on the Order to Show Cause and the motion in limine to March 5, 1993;

17 7. On March 3, 1993, plaintiff received, by mail service, a copy of
18 "Defendant Armstrong's Memorandum in Opposition to Motion in Limine re Actions
19 of Scientology." The proof of service of this document states that it was mailed to
20 plaintiff's counsel on March 1, 1993 (Ex. A to Bartilson Dec.);

21 8. Any opposition to the motion in limine was due to be filed and served,
22 pursuant to CCP §1005 (13) (b), on or before February 23, 1993. Even after the
23 hearing date on the motion was continued, the opposition was due on or before
24 February 25, 1993. Armstrong made no request to the Court for permission to
25 late-file and serve his opposition, nor did he serve it on plaintiff in time for plaintiff
26 to prepare and file a reply to it before the hearing on March 5, 1993;

27 9. On March 3, 1993, at 10:26 p.m., long after the close of business,
28 plaintiff's counsel's office received by telefax a copy of a 15-page document titled

1 "Defendant Armstrong's Memorandum in Sur-reply on Order to Show Cause re
2 Contempt." The proof of service on this document states that service was
3 accomplished by telefax and mail on March 3, 1993; the telefax slip notes the time
4 it was faxed (Ex. B, C to Bartilson Dec.);

5 10. The CCP makes no provision for the filing of a "sur-reply," nor do the
6 Local Rules of the Los Angeles Superior Court. Armstrong made no attempt to
7 seek permission of the Court to file this additional memorandum, nor did he file and
8 serve it in time for plaintiff to prepare any meaningful response to it. Indeed, the
9 filing may most properly be interpreted as a deliberate attempt to circumvent the
10 Court's ruling of February 25 requiring Armstrong to complete his briefing within
11 15 pages;

12 11. The briefing provided by Armstrong in his memoranda is duplicative,
13 and an attempt to re-litigate issues already determined by Judge Sohigian by the
14 issuance of the Order which Armstrong has violated. Both the United States
15 Supreme Court and numerous California courts have held that a defendant may not
16 defend a contempt charge for violation of the order of a Court having jurisdiction
17 over the person and subject matter of the action by arguing that the underlying
18 order should not have issued in the first place. E.g., Walker v. City of Birmingham
19 (1967) 388 U.S. 308; In re Jackson (1985) 170 Cal.App.3d 505, 775, 778, 216
20 Cal.Rptr. 539, 541.

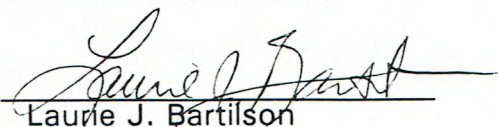
21 DATED: March 4, 1993

Respectfully submitted,

22 Andrew H. Wilson
23 WILSON, RYAN & CAMPILONGO

24 BOWLES & MOXON

25 By:


Laurie J. Bartilson

26
27 Attorneys for Plaintiff
and Cross-Defendant
28 CHURCH OF SCIENTOLOGY
INTERNATIONAL

1 I, LAURIE J. BARTILSON, hereby declare:

2 1. I am a member of the law firm of Bowles & Moxon and am an
3 attorney admitted to practice in the State of California. My firm represents plaintiff
4 Church of Scientology International ("Church") in the instant case. I have
5 personal knowledge of the matters specified in this declaration and, if called upon
6 to testify on such matters, would and could do so competently.

7 2. On December 31, 1992, I appeared before the Honorable Ronald N.
8 Sohigian seeking an Order to Show Cause re: Contempt against defendant herein,
9 Gerald Armstrong. My moving papers were served on Armstrong's counsel on
10 December 30, 1992. Judge Sohigian issued the Order to Show Cause, setting the
11 hearing for February 16, 1993. I served the Order on Armstrong's counsel by mail
12 and telefax.

13 3. On February 1, 1993, I filed and hand-served a Motion in Limine
14 concerning the contempt hearing, which was also scheduled for February 16,
15 1993.

16 4. At the request of Armstrong's counsel, I agreed to continue the
17 hearings on both the Order to Show Cause Re: Contempt and the Motion in Limine
18 until March 2, 1993. This stipulation was approved by the Court.

19 5. Armstrong's Memoranda of points and authorities opposing these
20 motions were due to be filed and served by Armstrong on February 23, 1993.

21 6. On February 25, 1993, two days after the date on which any
22 oppositions were due to be filed and served and while I was out of town,
23 Armstrong moved this Court, by ex parte application, for permission to file a
24 Memorandum in opposition to the Order to Show Cause 44 pages in length. His
25 application was denied, and on that date he filed a 15-page memorandum.

26 7. On March 1, 1993, having received no opposition to the motion in
limine, and both the opposition and reply date having passed, I filed a notice of

1 non-opposition to the motion in limine.

2 8. On March 1, 1993, the Court, on its own motion, continued the
3 hearing on the Order to Show Cause and the motion in limine to March 5, 1993.

4 9. On March 3, 1993, I received, by mail service, a copy of "Defendant
5 Armstrong's Memorandum in Opposition to Motion in Limine re Actions of
6 Scientology." The proof of service of this document states that it was mailed to
7 plaintiff's counsel on March 1, 1993. A true and correct copy of the proof of
8 service is attached hereto as Ex. A.

9 10. Any opposition to the motion in limine was due to be filed and served
10 on or before February 23, 1993. Even after the hearing date on the motion was
11 continued, the opposition was due on or before February 25, 1993. Armstrong
12 made no request to the Court for permission to late-file and serve his opposition,
13 nor did he serve it on plaintiff in time for plaintiff to prepare and file a reply to it
14 before the hearing on March 5, 1993.

15 11. On March 3, 1993, at 10:26 p.m., long after the close of business,
16 my office received by telefax a copy of a 15-page document titled "Defendant
17 Armstrong's Memorandum in Sur-reply on Order to Show Cause re Contempt." I
18 was not present in my office at that time of night, but the time is clearly recorded
19 on the telefax transmittal, a true and correct copy of which is attached hereto as
20 Exhibit B. The proof of service on this document states that service was
21 accomplished by telefax and mail on March 3, 1993. A true and correct copy of
22 this proof of service is attached hereto as Exhibit C. it was faxed (Ex. __, __ to

23 I declare under penalty of perjury under the laws of the State of California
24 that the foregoing is true and correct.

25 Executed this 4th day of March, 1993, at Los Angeles, California.

26

Laurie J. Bartilson

PROOF OF SERVICE

I am employed in the County of Marin, State of California. I am over the age of eighteen years and am not a party to the above entitled action. My business address is 711 Sir Francis Drake Boulevard, San Anselmo, California. I served the following documents: DEFENDANT ARMSTRONG'S MEMORANDUM IN OPPOSITION TO MOTION IN LIMINE on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California:

Andrew Wilson, Esquire
WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
San Francisco, California 94104

LAURIE J. BARTILSON, ESQ.
Bowles & Moxon
6255 Sunset Boulevard, Suite 2000
Los Angeles, California 90028

- (By Mail) I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California.
- (Personal) I caused said papers to be personally service on the office of opposing counsel.
- (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

DATED: March 1, 1993



FORD GREENE
LAWYER

HUB LAW OFFICES
711 SIR FRANCIS DRAKE BOULEVARD
SAN ANSELMO, CALIFORNIA 94960-1949
(415) 258-0360

LICENSE No. 107501
FACSIMILE (415) 456-5318

IMPORTANT: This teletype is intended only for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected from disclosure under applicable law. If the reader of this transmission is not the intended recipient or the employee or agent responsible for delivering the transmission to the intended recipient, you are hereby notified that any dissemination, distribution, copying or use of this transmission or its contents is strictly prohibited. If you have received this transmission in error, please notify us by telephone and return the original transmission to the office at the above address.

DATE: March 3, 1993

TO: LAURIE J. BARTILSON, ESQUIRE

TELEPHONE: (213)661-4030

FAX TELEPHONE: (213)662-6419

FROM: FORD GREENE

TELEPHONE: (415) 258-0360

FAX TELEPHONE: (415) 456-5318

DOCUMENT INFORMATION

This Fax Communication consists of this cover sheet plus 20 pages comprising the accompanying document.

Sur-Reply on Order to Show Cause Re Contempt

INSTRUCTIONS

CONFIRM RECEIPT OF THIS FAX BY TELEPHONE

HARD COPY TO FOLLOW BY MAIL

IF ALL PAGES ARE NOT RECEIVED OR ARE NOT LEGIBLE, PLEASE TELEPHONE AND NOTIFY SENDER IMMEDIATELY.

OTHER:

PROOF OF SERVICE

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I am employed in the County of Marin, State of California. I am over the age of eighteen years and am not a party to the above entitled action. My business address is 711 Sir Francis Drake Boulevard, San Anselmo, California. I served the following documents: DEFENDANT ARMSTRONG'S MEMORANDUM IN SUR-REPLY ON ORDER TO SHOW CAUSE RE CONTEMPT

on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California:

Andrew Wilson, Esquire
WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
San Francisco, California 94104

LAURIE J. BARTILSON, ESQ.
Bowles & Moxon
6255 Sunset Boulevard, Suite 2000
Los Angeles, California 90028

By Fax

- (By Mail) I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California.
- (Personal) I caused said papers to be personally service on the office of opposing counsel.
- (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

DATED: March 3, 1993

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, California 90028.

On March 4, 1993, I served the foregoing document described as PLAINTIFF'S OBJECTION TO "DEFENDANT ARMSTRONG'S MEMORANDUM IN OPPOSITION TO MOTION IN LIMINE RE ACTIONS OF SCIENTOLOGY" AND "DEFENDANT ARMSTRONG'S MEMORANDUM IN SUR-REPLY ON ORDER TO SHOW CAUSE RE CONTEMPT;" DECLARATION OF LAURIE J. BARTILSON IN SUPPORT THEREOF on interested parties in this action by

- [] placing the true copies thereof in sealed envelopes as stated on the attached mailing list;
- [X] placing [] the original [X] a true copy thereof in sealed envelopes addressed as follows:

Paul Morantz **By Fax and U.S. Mail**
P.O. Box 511
Pacific Palisades, CA 90272

- [X] BY MAIL
 - [] *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.
 - [X] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or

postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on March 4, 1993, at Los Angeles, California.

[] **** (BY PERSONAL SERVICE)** I delivered such envelope by hand to the offices of the addressee.

Executed on _____, 1993, at Los Angeles, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

PAUL BRADFORD

Type or Print Name

Paul Bradford

Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)

presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on March 4, 1993, at Los Angeles, California.

- [] **** (BY PERSONAL SERVICE)** I delivered such envelope by hand to the addressee.

Executed on _____, 1993, at Los Angeles, California.

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- [] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Paul Beadford
Type or Print Name


Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)